

**DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS
Huron Center for Independence
Accountability Review - Focus Monitoring Report 2008-2009**

Team Members: Linda Shirley, Mary Borgman, Educational Specialists; and Lori Wehlander, Transition Liaison

Dates of On Site Visit: January 22, 2009

Date of Report: February 23, 2009

3 month update due: May 23, 2009

Date Received:

6 month update due: August 23, 2009

Date Received:

9 month update due: November 23, 2009

Date Received:

Closed:

Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

(1) That the requirements of this article are carried out;

(2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:

(a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and

(b) Meets the educational standards of the state education agency, including the requirements of this article; and

(3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;

(2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)

State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

1. GENERAL SUPERVISION

Present Levels:

State Performance Plan: Indicator 15

ARSD 24:05:16:16. Personnel standards. To ensure that all personnel necessary to carry out the purposes of Part B and Part C of the Individuals with Disabilities Education Act are appropriately and adequately prepared and trained, the division shall determine that all personnel providing special education or related services, including early intervention and early childhood personnel, perform these functions under state-approved or state-recognized certification or licensure or other comparable requirements that apply to the area in which the person is providing instruction or other service.

Findings:

Through interviews and file reviews the monitoring team found the Huron Center for Independence has a certified special education teacher on staff. The teacher does not write the IEPs and there is no documentation of the services she provides the students.

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Huron Center for Independence will specify on the IEPs the services a student will receive and who will be responsible for delivering the services. Data Collection: A copy of IEPs on the two identified students will be submitted to the SEP, showing the special education teacher will implement the content.	May 1, 2009	Huron Center for Independence	

2. GENERAL SUPERVISION

Present Levels: from January 28, 2004

Findings:

ARSD 24:05:25:04.02. Determination of needed evaluation data. As part of an initial evaluation, if appropriate, the individual education program team required by § 24:05:27:01.01 and other individuals with knowledge and skills necessary to interpret evaluation data, determine whether the child has a disability, and determine whether the child needs special education and related services as appropriate, shall:

- (1) Review existing evaluation data on the child, including:
 - (a) Evaluations and information provided by the parents of the child;
 - (b) Current classroom-based assessments and observations; and
 - (c) Observations by teachers and related services providers; and
- (2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:
 - (b) The present levels of performance and educational needs of the student; and
 - (c) Whether the student needs special education and related services

ARSD 24:05:30:05. Content of notice. The notice must include the following:

- (1) A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the district considered and the reasons why those options were rejected;
- (2) A description of each evaluation procedure, test, record, or report that the district uses as a basis for the proposal or refusal;
- (3) A description of any other factors which are relevant to the district's proposal or refusal;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this article and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this article.

ARSD 24:05:30:04. Prior notice and parent consent. Written notice which meets the requirements of § [24:05:30:05](#) must be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents. If the notice described in this section relates to an action proposed by the district that also requires parental consent, the district may give notice at the same time it requests parent consent.

Informed parental consent must be obtained before conducting a first-time evaluation, reevaluation, and before initial placement of a child in a program providing special education or special education and related services. Parental consent is not required before:

- (1) Reviewing existing data as part of an evaluation or reevaluation; or

(2) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

A district may not use a parent's refusal to consent to one service or activity under this article to deny the parent or child any other service, benefit, or activity of the district except as required by this chapter.

If a parent refuses to give consent for the child to be evaluated or reevaluated, the district may use the hearing or mediation procedures in this article to determine whether the child may be evaluated without parental consent.

If the hearing officer upholds the district, the district may evaluate or reevaluate the child without parental consent, subject to the parent's right to appeal the decision to the courts.

ARSD 24:05:25:03. Preplacement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of this chapter. **Evaluations must be completed within 25 school days after receipt by the district of signed parent consent to evaluate unless other timelines are agreed to by the school administration and the parents.** Consent for initial evaluation may not be construed as consent for initial placement.

ARSD 24:05:30:06.01. Procedural safeguards notice -- Availability. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum:

- (1) Upon initial referral for evaluation;
- (2) Upon each notification of an individualized education program meeting;
- (3) Upon reevaluation of the child; and
- (4) Upon receipt of a request for a due process hearing under this chapter.

Huron Center for Independence conducts three-year reevaluations for students in need of special education. Evaluations are conducted, and a meeting is held to discuss the results. Prior notice with parent input is not consistently used. Parents are not notified on the prior notice of what evaluations will be done, nor is it documented that they are given the opportunity to provide input into the evaluation process.

Through a review of student files and interviews with staff, the reviewer found the agency does not provide a complete prior notice to parents/adult students when initiating evaluations and meetings. A prior notice was found, but not with all the required content and it was not consistently used. The notice does serve to alert parents to the activity, but it does not address all the requirements of giving appropriate prior notice. Evaluations must be completed within 25 school days unless other timelines are agreed upon by the agency and the parents. In addition, the agency does not provide parents with a copy of procedural safeguards at the time notice is given.

Follow-up: January 22, 2009

State Performance Plan: Indicator 8-11

Finding:

Through a review of two student files Huron Center for Independence did not have prior notices for students that they are responsible for writing IEPs. There was no documentation of prior notices for meetings or evaluations in the student's file. There were no written reports of evaluation, and no documentation of parent input into the evaluation process. Eligibility determination was not seen in the files for the two identified students. Functional assessments relating to the disability was not seen in the files reviewed. Transition evaluations were not administered to the two students reviewed.

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The district will review the files of the two students identified to ensure: <ol style="list-style-type: none">1. Parent or guardian input is seen in the evaluation process before the evaluation begins.2. A prior notice is on file for each student being evaluated.3. All evaluations listed on the prior notice are administered.4. Evaluations are not administered without parent consent.5. Evaluation reports are written up and given to the parent/guardian.6. Functional assessment is conducted/reported in the areas of identified disability.7. Functional assessment specifies skill necessary to develop the PLAAFPS (strengths and needs in the areas of the identified disability) resulting in an IEP developed to provide educational benefit. Data Collection: Huron Center for Independence will submit a copy of a: prior notice/ consent, copies of evaluation reports and IEP for the two students identified.	May 1, 2009	Huron Center for Independence	

3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

3.GENERAL SUPERVISION

Present Levels:

State Performance Plan: Indicator 8-11

ARSD 24:05:27:01.02. Development, review, and revision of individualized education program.

In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The individualized education program team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;

(2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;

(3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(5) Consider whether the student requires assistive technology devices and services.

The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01.03(3).

Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program. No additional information may be required to be included in a student's IEP beyond what is explicitly required in this section.

Finding: January 22, 2009

Consideration of special factors content was not seen in the Personal Enhancement Plan/IEP.

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: A state training will be provided to all special education staff on all areas of evaluation, IEP development, and transition. Data Collection: The district will submit a copy of the training agenda, date of training, presenter(s) and a list of persons attending.	April 15, 2009	State	

3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
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Activity/Procedure: All IEPs will have correct content. Data Collection: The IEPs of the two identified students will be submitted to SEP for correct content.	May 1, 2009	Huron Center for Independence	
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3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

4.GENERAL SUPERVISION

Present Levels:

State Performance Plan: Indicator 8-11

ARDS 24:05:27:01.03. Content of individualized education program. Each student's individualized education program shall include:

(1) A statement of the student's present levels of academic achievement and functional performance, including:

(a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or

(b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;

(2) A statement of measurable annual goals, including academic and functional goals, designed to:

(a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and

(b) Meet each of the student's other educational needs that result from the student's disability;

For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;

(3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student:

(a) To advance appropriately toward attaining the annual goals;

(b) To be involved and progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;

(4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;

(5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student shall take an alternate

assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:

- (a) The student cannot participate in the regular assessment; and
- (b) The particular alternate assessment selected is appropriate for the student;

(6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;

(7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:

(a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and

(b) The transition services (including courses of study) needed to assist the student in reaching those goals; and

(9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

Findings: January 22, 2009

Through a review of student files the monitoring team found present levels of academic achievement and functional performance (PLAAFs) were not seen in the document. Some strengths were listed, but not skill specific or how it affected involvement in the regular education classroom. Parent or guardian participation was not listed in the PLAAFs. Annual goals and objectives do not meet the criteria for condition, performance and criteria. For example: "I want to get my play station fixed or get a new one this year" "I want to go to two Pow Wows this year."

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The district will review the two IEP files of the students identified to ensure the required content is included, including present levels of performance, goals, Special factors and accommodations individualized for each student. Data Collection: A copy of IEPs will be sent to the SEP for verification of content.	May 1, 2009	Huron Center for Independence	

3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

5..GENERAL SUPERVISION

Present Levels:

State Performance Plan: Indicator 13

ARSD 24:05:27:13.02. Transition services. Transition services are a coordinated set of activities for a student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to postschool activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's strengths, preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Findings: Through a review of student files the monitoring team found transition services were random throughout the Personal Enhancement Plan/IEP. There was not a coordinated set of activities in place for students. Annual goals for transition were not measurable and could not be linked to measurable post secondary goals.

Corrective Action:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Technical Assistance for the district will be provided to special education staff on transition procedure for students on an IEP. Data Collection: The district will submit to SEP the date, time and the recipients of the technical assistance.	April 15, 2009	State	

3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: All IEPs written for students of transition age will reflect a coordinated set of activities, student strengths and interests to prepare them for post school activities. Data Collection: The district special education staff and director will submit two IEPs from the students identified to ensure all	May 1, 2009	Huron Center for Independence	

transition areas are complete.			
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3 month Progress Report:

6 month Progress Report:

9 month Progress Report:

6. GENERAL SUPERVISION

Present Levels:

State Performance Plan: Indicator 5

ARSD 24:05:28:02. Continuum of alternative placements. Alternative placements which must be made available include the following:

- (1) Regular educational programs with modification;
- (2) Resource rooms;
- (3) Self-contained programs;
- (4) Separate day school programs;
- (5) Residential school programs;
- (6) Home and hospital programs; and
- (7) Other settings.

For each of the programs listed in this section, the IEP team shall determine the extent to which related services are required in order for the child to benefit from the program. The length of the school day must be equal in duration to that of a regular public school day unless an adjusted school day is required to meet the individual needs of the child. The IEP team shall provide for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement, as applicable.

In those cases where placement is made in a separate day school program or residential school program, the district may abide by the school term of the facility in which the child is placed based on the individual needs of the child.

Findings: Through a review of student files special education and related services to be provided, description, and amount and location of services were not seen in the IEPs.

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: The district will address special education and related services to be provided, including a description, amount and location of services. Data Collection: A copy of each IEP will be sent to Special Education Programs.	March 15 and ongoing	Huron Center for Independence	

3 month Progress Report:

6 month Progress Report:

9 month Progress Report: